

COMMONWEALTH OF MASSACHUSETTS

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LISA RICCOBENE,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-10256 MEL
)	
MASSACHUSETTS BAY)	
TRANSPORTATION AUTHORITY,)	
and ANNE McCALL,)	
)	
Defendants.)	
)	

JOINT MOTION TO EXTEND RULE 56 DEADLINE

The parties in the above-captioned matter hereby jointly move for a brief extension of the deadlines for the filing of summary judgment motions and oppositions thereto in order to permit time for the parties to conduct the deposition of a key witness who has been unavailable to be deposed due to medical reasons, according to information received by the Defendants. In support hereof, the parties relate as follows.

1. By order dated January 16, 2007, this Court allowed the parties' joint motion to extend the pretrial schedule in order to permit them time to pursue settlement and/or complete discovery and prepare the case for summary judgment.
2. The parties have not reached a settlement agreement in this matter, however, they have diligently conducted discovery, and as of this date, have completed all discovery except for the deposition of Joan Martin, the former Deputy General Manager of the MBTA (in charge of Human Resources, among other things), whom the parties believe is a key witness in this matter.

3. Among other things, the parties have served and responded to each other's interrogatories, have served and responded to each other's requests for production of documents, and have conducted the depositions of (1) the Plaintiff, Lisa Riccobene; (2) the Defendant, Anne McCall; (3) Thomas O'Loughlin, the former Chief of the MBTA Police; (3) Michael Mulhern, the former General Manager of the MBTA; (4) William Fleming, the former Interim Chief (presently Lieutenant) of the MBTA Police; (5) Nancy O'Loughlin, a Lieutenant with the MBTA Police; and (6) Peter Brecher, Ph.D., the Plaintiff's former therapist.

4. The Plaintiff caused a deposition subpoena to be served at Ms. Martin's last and usual place of abode, but Ms. Martin did not appear for her deposition. The Defendant does not have personal knowledge of the specifics of Ms. Martin's situation but believes that she was unable to appear due to medical reasons and may not have even had actual knowledge of the subpoena. The parties are attempting to determine the status of Ms. Martin's condition and when she might be available to be deposed, but have not been able to obtain such information as of this date.

5. The current pretrial schedule requires that summary judgment motions be filed no later than June 5, 2007, and that oppositions thereto be filed by July 5, 2007. The parties believe that conducting Ms. Martin's deposition is necessary prior to preparing summary judgment papers, and thus request a brief extension of time to attempt to complete her deposition.

6. As such, the parties request that the deadline for filing summary judgment motions be extended up through and including June 29, 2007, and the deadline for opposing summary judgment motions be extended up through and including July 30, 2007. Further, the parties request that they be allowed to conduct Ms. Martin's deposition in the interim, assuming she is medically able to be deposed. The parties will report to the Court on or before June 15,

2007 as to the status of Ms. Martin's deposition.

WHEREFORE, for all the above reasons, the parties request that this motion be granted, and that the pretrial schedule be extended as set forth in Paragraph 6, above. A Proposed Order is attached hereto as Exhibit A.

Respectfully Submitted,

LISA RICCOBENE,

By her Attorney,

LAW OFFICE OF MITCHELL J. NOTIS

/s/ Mitchell J. Notis

By:

Mitchell J. Notis (BBO#: 374360)
370 Washington Street
Brookline, MA 02445
(617) 566-2700

Respectfully Submitted,

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY and
ANNE MCCALL,

By their Attorney,

PRINCE, LOBEL, GLOVSKY & TYE LLP

/s/ Jeffrey A. Dretler

By:

Jeffrey A. Dretler (BBO#: 558953)
100 Cambridge Street, Suite 2200
Boston, MA 02114
(617) 456-8000